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JUN 21 2006

OFFICE OF PETITIONS

In re Patent No. 6,627,610	:	DECISION ON
Jeffrey Glenn	:	PATENT TERM ADJUSTMENT
Issue Date: September 30, 2003	:	AND
Application No. 09/687,267	:	NOTICE OF INTENT
Filed: October 13, 2000	:	TO ISSUE
Attorney Docket No. 240042052403	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF USPTO'S PATENT TERM ADJUSTMENT DETERMINATION UNDER 35 U.S.C. § 154(b)(3)(B)(ii)", filed October 8, 2002 (Certificate of Mailing dated October 29, 2005). Patentee requests that the patent term adjustment indicated on the patent be corrected from forty-eight (48) to one hundred forty-four (144) days.

The petition is GRANTED to the extent indicated herein. Applicants are given thirty (30) days to respond to this decision. This time period is not extendable under 37 C.F.R. § 1.136.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **zero (0) days**.

On September 10, 2002, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date was one (1) day.

On October 8, 2002, Applicant timely¹ submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is ninety-seven (97) days. On September 30, 2003, the application issued into patent no. 6,627,610 with a patent term adjustment of forty-eight

¹ Applicants filed the application for patent term adjustment prior to payment of the issue fee.

(48) days.

The Office initially determined a patent term adjustment of zero (0) days based on an adjustment for PTO delay of one hundred sixty-seven (167) days pursuant to 35 U.S.C. 154(b)(1)(A)(iv) and 37 C.F.R. § 1.703(a)(6) and ninety-seven (97) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. 1.703(a)(2), reduced by Applicants' delays of ninety-six (96) and six (6) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b), one hundred fourteen (114) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(10). The adjustment of ninety-six (96) and ninety-seven (97) days are at issue.

Applicant is correct that he should not have been assessed ninety-six (96) days of delay for filing an amendment on February 5, 2005. The Office mailed a final Office action on August 1, 2001. The Office then mailed a new Office action, restarting the period for reply, on December 5, 2001. As applicant's amendment was filed within three months of this new Office action, no applicant delay should have been assessed. However, applicant's amendment failed to place the application in condition for allowance. It was not until June 13, 2002 that applicant filed a Request for Continued Examination.² Accordingly, applicant should have been assessed one hundred (100) days of applicant delay pursuant to 37 C.F.R. § 1.704(b).

In view of the RCE filed June 13, 2002, the Notice of Allowance September 10, 2002 was timely mailed by the Office within four months. Accordingly, the Office should not have been assessed ninety-seven (97) days for the mailing of the Notice of Allowance, but rather zero (0) days.

In view thereof, the correct determination of PTA is zero (0) days (167 days of PTO delay, reduced by 220 (6+114+100) days of applicant delay).

Receipt of the \$200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **zero (0) days**, subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.



Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enc: draft certificate of correction

² Made timely for purposes of avoiding abandonment by obtaining a three month extension of time, and by including a Certificate of Mailing dated June 5, 2002. However, a Certificate of Mailing is not taken into account in the PTA determination.

Day : Wednesday

Date: 6/21/2006

Time: 10:42:43

PALM INTRANET**PTA Calculations for Application: 09/687267**

Application Filing Date:	10/13/2000	PTO Delay (PTO):	264
Issue Date of Patent:	09/30/2003	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	216
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-101		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
72	06/21/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		100	
71	06/21/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	96		
70	06/21/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		97	
64	09/30/2003	PATENT ISSUE DATE USED IN PTA CALCULATION	167		62
63	08/12/2003	RECEIPT INTO PUBS			
62	12/16/2002	ISSUE FEE PAYMENT VERIFIED			
61	12/16/2002	WORKFLOW - DRAWINGS FINISHED			
60	12/16/2002	WORKFLOW - DRAWINGS MATCHED WITH FILE AT CONTRACTOR			
59	08/08/2003	RECEIPT INTO PUBS			
58	04/29/2003	WORKFLOW - CUSTOMER SERVICE REQUEST - FINISH			
57	04/29/2003	WORKFLOW - CUSTOMER SERVICE REQUEST - BEGIN			
56	04/28/2003	APPLICATION IS CONSIDERED READY FOR ISSUE			
55	12/16/2002	WORKFLOW - INFORMATIONAL DISCLOSURE STATEMENT - FINISH			
54	12/16/2002	ISSUE FEE PAYMENT VERIFIED		6	40
53	12/16/2002	WORKFLOW - DRAWINGS FINISHED			
52	12/16/2002	WORKFLOW - DRAWINGS MATCHED WITH FILE AT CONTRACTOR			
51	04/24/2003	RECEIPT INTO PUBS			
50	01/09/2003	WORKFLOW - CUSTOMER SERVICE REQUEST - FINISH			
49	01/09/2003	WORKFLOW - CUSTOMER SERVICE REQUEST - BEGIN			

48	12/16/2002	WORKFLOW - DRAWINGS RECEIVED AT CONTRACTOR			
47	12/16/2002	WORKFLOW - INFORMATIONAL DISCLOSURE STATEMENT - BEGIN			
46	12/16/2002	WORKFLOW - DRAWINGS SENT TO CONTRACTOR		114	46
45	12/16/2002	ISSUE FEE PAYMENT RECEIVED			
44	11/25/2002	RECEIPT INTO PUBS			
43	09/19/2002	WORKFLOW - FILE SENT TO CONTRACTOR			
42	09/19/2002	RECEIPT INTO PUBS			
41	09/17/2002	DISPATCH TO PUBLICATIONS			
40	09/10/2002	MAIL NOTICE OF ALLOWANCE	97		21
39	09/09/2002	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
38	09/09/2002	NOTICE OF ALLOWABILITY			
37	09/09/2002	DATE FORWARDED TO EXAMINER			
36	06/13/2002	REQUEST FOR CONTINUED EXAMINATION (RCE)			
35	09/09/2002	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
34	06/13/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
32	06/17/2002	DATE FORWARDED TO EXAMINER			
31	05/16/2002	AMENDMENT AFTER FINAL REJECTION			
30	06/13/2002	WORKFLOW - REQUEST FOR CPA - BEGIN			
29	05/16/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	03/18/2002	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
27	03/04/2002	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
26	03/04/2002	MAIL ADVISORY ACTION (PTOL - 303)			
25	03/04/2002	ADVISORY ACTION (PTOL-303)			
24	02/21/2002	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
23	02/13/2002	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
22	02/09/2002	DATE FORWARDED TO EXAMINER			
21	02/05/2002	AMENDMENT AFTER FINAL REJECTION		96	17
20	12/05/2001	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			

19	12/05/2001	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
18	12/05/2001	CORRESPONDENCE ADDRESS CHANGE			
17	08/01/2001	MAIL FINAL REJECTION (PTOL - 326)			
16	07/30/2001	FINAL REJECTION			
15	05/19/2001	DATE FORWARDED TO EXAMINER			
14	05/14/2001	RESPONSE AFTER NON-FINAL ACTION			
13	05/14/2001	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
12	12/06/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	02/14/2001	MAIL NON-FINAL REJECTION			
10	02/12/2001	NON-FINAL REJECTION			
9	10/31/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	10/13/2000	PRELIMINARY AMENDMENT			
7	12/30/2000	CASE DOCKETED TO EXAMINER IN GAU			
6	12/14/2000	APPLICATION DISPATCHED FROM OIPE			
5	12/11/2000	CORRESPONDENCE ADDRESS CHANGE			
4	11/06/2000	ERROR(S) IN CRF CORRECTED BY STIC			
3	10/30/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	10/13/2000	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	10/13/2000	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 6,627,610 B1

DATED : September 30, 2003

INVENTOR(S) : Jeffrey Glenn

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (48) days

Delete the phrase "by 48 days" and insert – by 0 days—